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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

KATMAI WATER TAXI, LLC,

Plaintiff,

v.

NW BEND BOATS, LLC d/b/a
NORTH RIVER BOATS,

Defendant.

IN ADMIRALTY

NO. 3:21-cv-00110-SLG

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA,

Plaintiff in Intervention,

v.

NW BEND BOATS, LLC d/b/a
NORTH RIVER BOATS,

Defendant.

ATTORNEYS AT LAW

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ANSWER TO AMENDED COMPLAINT

COMES NOW defendant NW Bend Boats LLC d/b/a North River Boats (“North River”) and by way of Answer to plaintiff Katmai Water Taxi, LLC amended complaint states and alleges as follows:

THE PARTIES

1. Admits.

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1 trial and requires no answer.

2 12. Admits.

3 13. North River admits vessel captain and Katmai Water Taxi employee Rob
4 Ellis ran the vessel OTIS aground during sea trials in Alaska. Except as specifically
5 admitted, the allegation is denied.

6 **THE ACCIDENT**

7 14. Admits.

8 15. North River admits Mr. Blocher did not have a U.S. Coast Guard license,
9 as one was not required under the circumstances and multiple licensed personnel in
10 plaintiff's employ were aboard. Except as specifically admitted, the allegation is denied.

11 16. North River admits the GPS system was not pre-programmed with safe
12 passage routes and that safe passage would need to be plotted manually by running the
13 route. Admits the GPS system constitutes an important vessel component. Admits
14 plaintiff's agents guided the vessel's travel through a portion of the route. Except as
15 specifically admitted, the allegation is denied.

16 17. North River admits the OTIS returned to shore on or about May 31, 2019
17 on account of elevated cabin pressure caused by closed dampers following the inspection
18 of the fire suppression system. Except as specifically admitted, the allegation is denied.

19 18. North River admits the vessel was relaunched in the Naknek River on or
20 about the date and time identified intending to travel the channel identified for the purpose
21 of U.S. Coast Guard inspection for approval to carry more-than 6 passengers. Except as
22 specifically admitted, the allegation is denied.

23 19. Denies.

24 20. North River admits the GPS coordinates were not visible at the time on
25 account of the backlight. North River specifically denies Blocher was "travelling blind,"
26 as the vessel was under the command of a local captain with local knowledge. Except as

1 specifically admitted, the allegation is denied.

2 21. The allegation is an issue of law for the Court to decide. To the extent an
3 answer is required, North River denies the allegation.

4 22. North River admits the vessel captain Rob Ellis took the helm of the vessel
5 while Mr. Blocher adjusted the GPS backlighting and further admits Ellis negligently
6 grounded the vessel. Except as specifically admitted, the allegation is denied.

7 23. North River specifically denies allegations of negligence. The remainder is
8 denied for lack of sufficient information and knowledge.

9 **FIRST CAUSE OF ACTION—NEGLIGENCE**

10 24. North River incorporates and re-alleges its previous answer.

11 25. Denies, including all subparts.

12 26. Denies.

13 27. Denies.

14 **SECOND CAUSE OF ACTION—NEGLIGENT ENTRUSTMENT**

15 28. North River incorporates and re-alleges its previous answer.

16 29. Denies.

17 **THIRD CAUSE OF ACTION—BREACH OF CONTRACT**

18 30. North River incorporates and re-alleges its previous answer.

19 31. Denies.

20 32. Denies.

21 33. Denies.

22 **DAMAGES**

23 34. North River incorporates and re-alleges its previous answer.

24 35. Denies.

25 36. Denies.

26 37. Denies.

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1 38. Denies.

2 39. Denies.

3 40. Denies.

4 41. Denies.

5 42. Denies.

6 43. Denies.

7 **JURY DEMAND**

8 44. Denies.

9 **AFFIRMATIVE DEFENSES**

10 In further answer to plaintiff's complaint, defendant North River Boats pleads as
11 affirmative defenses:

12 1. North River re-alleges its previous answer as an affirmative defense.

13 2. Plaintiff fails in one or more of its causes of action to state a claim upon
14 which relief may be granted.

15 3. Plaintiff's damages, herein denied, were caused or contributed by its own
16 fault or the fault of its agents or employees; plaintiff's recovery, if any, should be barred
17 or reduced accordingly.

18 4. Plaintiff's damages, herein denied, were caused or contributed by the fault
19 of others; plaintiff's recovery, if any, should be barred or reduced accordingly.

20 5. Plaintiff has and had a duty to mitigate its damages; to the extent it has
21 failed to do so, its recovery should be barred or reduced accordingly.

22 6. Plaintiff's tort claims are barred by the economic loss rule.

23 7. Plaintiff's claims for consequential and incidental damages are barred by
24 applicable warranty exclusions.

25 8. One or more of plaintiff's claims are barred by the doctrine of laches.

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1 Wherefore, defendant North River prays:

2 1. That plaintiff's complaint be dismissed and it take nothing thereby.

3 2. That North River be awarded its costs and attorney fees under Alaska Rule
4 of Civil Procedure 82.

5 3. That North River be entitled to such other relief as this Court finds just and
6 equitable.

7
8 Dated this 1st day of December, 2021.

9 BAUER MOYNIHAN & JOHNSON LLP

10 /s/ Donald K. McLean
11 Donald K. McLean, AKSB No. 0403006

12 /s/ Robert D. Sykes
13 Robert D. Sykes, AKSB No. 1809074
14 Attorneys for defendant NW Bend Boats, LLC d/b/a
15 North River Boats

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